

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOANNE SANTORA,

Civil Action No.:

Plaintiff,

NOTICE OF REMOVAL

-against

COSTCO WHOLESALE CORPORATION,

Westchester County

Index No.: 54561/2017

Defendant.

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TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK:

Defendant, COSTCO WHOLESALE CORPORATION ("Costco"), by its attorneys, SIMMONS JANNACE DELUCA, LLP, upon information and belief, respectfully petitions the Court, pursuant to 28 U.S.C. § 1441, as follows:

1. On or about April 6, 2017, the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Westchester, bearing Index number 54561/2017. A trial has not yet been had therein. A copy of the Summons and Verified Complaint is annexed hereto as **EXHIBIT "A"**.

2. The action seeks monetary damages for personal injuries allegedly suffered by plaintiff JOANNE SANTORA, while she was inside a Costco store located in Port Chester, New York. The Plaintiff's complaint sounds in negligence.

3. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is a citizen of the State of Connecticut; and (b) Defendant, COSTCO WHOLESALE CORPORATION is now, and was at the time the action was commenced, a corporation incorporated in the State of Washington, with its principal place of business in the State of Washington.

4. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between Costco and Plaintiff.

5. Upon information and belief, the amount in controversy exceeds \$75,000. The Complaint alleges, *inter alia*, that plaintiff was caused to sustain "severe and serious" personal injuries with "permanent effects of pain, disability, disfigurement and loss of body function" as a result of the accident. Opposing counsel also advised Costco that plaintiff underwent surgery to her wrist approximately four months after the alleged incident.

6. This office requested that plaintiff's counsel cap damages at \$75,000 on June 6, 2017. This office followed up on this request by telephone on June 8, 2017 and June 9, 2017. To date, counsel has ignored Costco's request to cap damages.

7. Written notice of the filing of this Notice of Removal will be given to Plaintiff promptly after the filing of this Notice.

8. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the State of New York, County of Westchester promptly after the filing of this Notice.

9. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.

10. By filing this Notice of Removal, Defendant does not waive any defense which may be available to it, specifically including, but not limited to, its right to contest *in personam* jurisdiction over Petitioners, improper service of process and the absence of venue in this Court or the Court from which this action has been removed.

WHEREFORE, Defendant prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Westchester, be removed therefrom to this Court.

Dated: Hauppauge, New York
June 12, 2017

Yours, etc.

SIMMONS JANNACE DELUCA, LLP

By: 
Allison C. Leibowitz

Attorneys for Defendant
COSTCO WHOLESALE CORPORATION
Office & P.O. Address
43 Corporate Drive
Hauppauge, New York 11788
(631) 873-4888

TO: SOBO & SOBO, LLP
Attorneys for Plaintiff
JOANNE SANTORA
One Dolson Avenue
Middletown, New York 10940
(845) 343-0466